

**U.S. SMALL BUSINESS  
ADMINISTRATION**

**Regulatory Enforcement Fairness Hearing**

**Honolulu, HI**

**July 19, 2007**

---

## PROCEEDINGS

[START TAPE 1 SIDE A]

**MR. ANDREW POEPOE:** [Unintelligible]

**MR. NICHOLAS OWENS:** Mr. District Director, thank you for your leadership here in Hawaii and certainly for all of you being here today. This is the first time actually the national ombudsman has arrived in Hawaii to visit, meet with small business owners. So it is indeed a privilege to be here. Also at the state, recently, the state legislature, the leadership, of course the governor and senator [unintelligible] as well, the regulatory flexibility in this state is certainly alive and well for small business. To strengthen your small business, the Regulatory Review Board here in the state, which provides a great resource for small business, to make sure that regulations are effective and not excessive?

The state of America's 25 million small business owners is stronger than ever before, representing 99.7 percent of all businesses in the country. And it's because of that recognition that small business owners, be it here on this island or elsewhere, it's because of the work, the ingenuity, the jobs being created, that the economy is realizing growth. But we certainly know that with success there are also challenges—regulatory and compliance challenges. Often, whenever I say I'm here from the government, I came a long way but I'm here from the government, I'm here to help you, it makes you want to run out the door. Which, we don't want anybody to do that quite yet, but President Bush has said many times that the role of government is not to create wealth, the role of government is to create an environment where the entrepreneurial spirit can flourish, you can risk capital, you can achieve the American Dream. So it is indeed a privilege just to work in an area where we sometime have the gotcha attitude that is found within the federal government.

Some of the issues that we address in the Office of the National Ombudsman are regulatory enforcement in nature. It's would be repetitive audits or repetitive investigations, excessive acts of fines, penalties, burdens of compliance issues. Also I say my job is to help entrepreneurs—

**OPERATOR:** Angela Barranco, U.S. Environmental Protection Agency joined.

**MR. OWENS:** —office according to a recent economic impact study said that we've saved over \$229 million for small businesses. That's hard numbers. That's really producing results for small businesses.

I'll tell you that the two most precious commodities of just you

taking the time to be here, you know that the two most precious commodities for small business owners are time and money. So the last thing they need is unfair burdensome actions by the federal government.

The SBA's Office of Advocacy estimates that federal regulations alone cost small business owners \$7,647 per year per employee. That's a larger counterpart let's say of a larger business of 500 employees or more, that represents small businesses spending about 4-1/2 times as much for complying with environmental regulations, 67 percent for tax compliance, than their larger counterparts. And it's also because you can't afford to have teams of consultants, super lobbyists and accountants representing your issues. You're caught between you and that liaison with the federal government. So we certainly know that the money that you spend on burdensome regulatory costs could be better spent [background noise] infrastructure, growth, jobs, and of course to continue expanding your business.

I will tell you as well, what happens based on the comments we receive here today and what we receive through the Internet, through the mail from across the country and here at the roundtables, we take that back. I liaise on your behalf with, be it the Department of Labor [unintelligible] or with any federal agency including the SBA. We take that back, we ask for a response. We usually receive a response within 30 days from that federal agency regarding your particular concern and then we continue to work on your behalf. Federal agencies are responsive, are doing a better job. Do we have more to do in working collectively with our federal partners? We do, and we're continuing to work toward that.

To give you a little history, as you indicated, Congress created the Office of the National Ombudsman back in '96, about eleven years ago. Last year we celebrated our tenth anniversary of the Act. And in establishing the National Ombudsman it also created the ten regional regulatory fairness boards across the country. Because it's important for me to get outside the Beltway of Washington, DC to listen, learn from, and better understand the concerns of small businesses. And we hold about 20 roundtable hearings a year. This is the first time we've been able to be here in Hawaii.

Well one important aspect of my job is accountability and that's to the United States Congress and to our administrator at the SBA. [Unintelligible] take it very serious, the concerns of regulatory enforcement, fairness issues, as well as to the President in our annual report. We rate federal agencies A to F on their responsiveness to small business concerns. So if there's a time where federal agencies are certainly paying attention to a lot of the issues, it's around rating season. And certainly you can certainly understand why.

I want to give you a few examples of issues that we have

addressed and give you an idea of the broad scope in which we serve small businesses. It can be an issue even in an aviation company that was based in Seattle was fined \$10,000 for alleged documentation issues, alleged that they had not properly documented some records. And with that, the small business owner said that was not true, that they were in fact accurate. They went back and forth with the U.S. Customs and it was determined that there was a mistake by the federal agency. So they reduced the fine from \$10,000 to, I believe it was about \$100, and the gentleman said no, my good word is too important to me and he certainly continued working with us and we resolved that issue. It could be where a \$100,000 fine could put a small business out of business. I've seen a \$10,000 fine provide a tremendous unintended consequence for a small business.

Even in the Northwest, in Seattle, there were three grocers that testified about the USDA food stamps and nutrition program alleging that there was fraud committed is what USDA alleged against the small business owners. And 90 percent of those economic base needed food stamps needed that for sustenance for their community. USDA made a mistake, admitted they made a mistake, and rightly so, and then they reversed the decision after a hearing that we held in Seattle. In the State of Maine there were three mine operators, small mine operators, that insisted that their reports that were supposed to be filed on time with the regional office were in fact filed, however the regional office said they never received them. Well certainly the small businesses had to go around and around on that issue. It was determined that the Mine Safety and Health Administration made a mistake and then the Assistant Secretary even contacted that small business to personally apologize.

There was a small brouhaha—I've seen a few of those since I've been here, since yesterday—but there was one in Illinois that had an issue with wage and hour division of the Department of Labor. It was a dispute whether the brew master should be hourly or salaried. Well that small business spent over \$7,000 battling this and dealing with this issue, and they've contacted our office, and we were able to seek an equitable settlement. So that's all, that's good stuff.

If you look to Georgia, there was a shipping company that was fined \$2,000 for an alleged import / export violation. That was also another issue where the agency admitted they'd made a mistake and then from there we were able to resolve that issue. It may be just a phone call that you need an answer on. You've had an application before an agency, be it SBA, be it any agency, and it's been a long process, and there's been a backlog, and then you need assistance. We want to help you with that. We want to help you with our agency as well as with our other agencies.

We can't help small business owners if they don't know we're here and some of you that are attending; they may not have ever heard

there have been an ombudsman and such. But the more you can tell your friends and associations you are a part of, colleagues, that we're available, the more helpful we can be in serving them.

Several years ago—well, I say several years ago, it was many years ago, former President Ronald Reagan once said that the view at that time of government could be summed up in a few short phrases and that was if it moves you tax it, if it keeps moving you regulate it, and if it stops you subsidize it. Well in keeping with that premise, I can tell you that small business needs to operate in an environment where regulations are effective and not excessive, and it's our job in the National Ombudsman's Office to help small businesses navigate through the rough seas of federal regulatory enforcement.

That's a quick shot about what our office is about, the work we do. Certainly I want to open this up for comments that we are going to be having today. We have several that are listed here as public testimony. We certainly welcome those as well as any other folks here. Anyone else in attendance who is interested in commenting on any issue, we certainly would like to hear that as well.

Before we go into that I would like to acknowledge our federal agencies that are represented. If we could maybe just start from here and go over, and if you could indicate what agency you're with and who you are, please.

**MS. GABRIELA JANES:** Gabriel Janes [phonetic]. I'm the local expert advocate here in Hawaii from [unintelligible].

**MR. JERRY HIRAMOTO:** I'm Jerry Hiramoto and I'm the governmental liaison for IRS.

**MS. SMITH:** Name is [Unintelligible] Smith, the Department of Labor. I'm from Washington, DC, the Office of Small Business Programs. For more information about our office, I do have some handouts and I would like everyone to pick them up to get understanding of what Department of Labor does for small businesses.

**MR. JOSEPH RILBY:** Joseph Rilby. I'm with the USDA Food Safety Inspection Service. I cover the States of Hawaii and also Guam and Saipan. I'm the front line supervisor for the USDA.

**MR. JACK MARLIN:** I'm Jack Marlin.

**MR. OWENS:** You represent a federal agency?

**MR. MARLIN:** No.

**MR. OWENS:** Okay. Any federal agency representative we have here.

**BARBARA:** I'm Karen [unintelligible].

**MR. OWENS:** But I welcome you here. [laughter]

**BARBARA:** –small businesses.

**MALE VOICE 6:** [Unintelligible], U.S. Department of Labor, wage / hour, cover Hawaii islands, American Samoa, Guam, and [unintelligible].

**MR. OWENS:** Having issues with Roy Masters [phonetic].

**MALE VOICE 6:** I'm glad you settled the matter.

**MR. OWENS:** Yes, yes, it was settled.

**LARRY:** I'm Larry [unintelligible] representative for the SBA, the regions of Hawaii and Guam.

**BARBARA:** I'm Barbara [unintelligible] with the U.S. Department of Labor, OSHA. We cover the Pacific and region [unintelligible].

**MR. OWENS:** Anyone else representing federal agencies, congressional offices, [unintelligible]?

**FEMALE VOICE:** [Unintelligible]

**MS. JENNIFER TOMLINSON:** Jennifer Tomlinson [phonetic], State of Hawaii. I'm small business [unintelligible].

**MS. ANGELA BARRANCO:** Can you guys hear the phone?

**FEMALE VOICE:** Yes.

**MR. OWENS:** Do we have federal agencies on the line who represent--?

**MS. BARRANCO:** Yes, this Angela Barranco with the Environmental Protection Agency. I'm calling from the Region Nine office in California and Hawaii is within the Region Nine area.

**MR. THOMAS HICKS:** Hello Nick? This is Thomas Hicks [phonetic] from the U.S. Department of Labor in Washington.

**MR. OWENS:** Hi there, Mr. Hicks. Thank you for joining us.

**MR. HICKS:** I couldn't make the trip, Nick, because I'm busy here working on comment. [laughs]

**MR. OWENS:** We're pleased to hear that. Thank you so much. All right, now the guests.

**MR. ROBERT MATSUNAGA:** I'm Robert Matsunaga. I'm the [background noise].

**MR. OWENS:** All right, we have Mr. Henry Howard [phonetic], the first comment. Some comments may be on file and written. Mr. Chun? Yes, sir.

**MR. WALTER CHUN:** Good morning.

**MR. OWENS:** Perhaps, if you could, if you don't mind, if you

move over just—record this and we're going through our phones.

**MR. CHUN:** Hello, can you hear me?

**MR. OWENS:** Sure.

**MR. CHUN:** Thank you for coming. I'm glad that you were able to come. I represent a small company, a consulting company, and I'm primarily a risk management company. Most of my clients are small businesses and a lot of them did work with the federal government, primarily the military in construction and in other exercises.

One of the things that—number one, we didn't know that you existed. And I know you said you were established in 1996, the small business regulatory requirements. We did not know. So I'm glad you're here, I'm glad you're introducing yourselves.

The second thing—the primary issue for me on the military is that there is no common [unintelligible] construction function. Some of the examples you gave, you know, a \$10,000 fine, a \$100,000 fine, you're right, it could put a small business out of business. In Hawaii there are small businesses that have been put out of business by [unintelligible] federal contracting for the military. There is no accountability at all. These companies go out of business and it's just goodbye, too bad, we're sad.

During the performance of the contract, if the contractor feels that he is being treated with discrimination or being treated improperly, he has no place to go. If he went to the congressional delegation, which a lot of them have, the congressional delegation can [unintelligible], especially during an active contract. So the contractor is forced to pay the difference, because he's got to complete that contract, and a lot of them will pay or the bond will pay for the contract, and they're out of business. There is no money for them to go and fight later on [unintelligible]. So the government has an infinite amount of money and they have that enforcement ability to put you out of business before your contract is even done. When you're finished, you're out of business. Unless you have personal funds available to hire an attorney, file your claim, you're done. And there are a lot of small businesses here in Hawaii that have been through that process.

So one being federal contracts—people in the military lack the knowledge and the experience—just barely administer their contracts. And number two, once [background noise] what can he do? He has no ability whatsoever. And I was like to see a procedure or process established so that these guys can do it simply and get some kind of equitable treatment, before his contract period is over. And I'm sure some of the businesses that [unintelligible] just to fight for that [unintelligible].

So again, thank you for coming and [unintelligible].

**MR. POEPOE:** You think there is no accountability and there is no way to go where [unintelligible] they are losing their business even though they have a contract with [unintelligible]. The military [unintelligible]. From your experience, can you name, just for example, one of [unintelligible] one of the names of the businesses, and the nature of their project, and what was it, and what it wasn't, and what constitutes [unintelligible]

**MR. CHUN:** I can name one. [Unintelligible] Mr. Metcalf, Metcalf Construction basically put out of business by a federal contract, or real close to being put out of business.

Some of the examples of unfair treatment are controlling the qualified people that he needed. He was not able to manage his project with the people that he had hired and [unintelligible]. The government forced him to hire unqualified personnel, hired to a certain extent their friends to manage his project and later on delayed his project. So the intentional delays on the project created liquidity damages in excess of the amount [unintelligible]. There was, for example, [unintelligible] condition that was determined, and whether it was a [unintelligible] condition or not is something that would be established by the legal system later on. But from the time it was identified until the time they would say this is not a [unintelligible] condition, we don't agree, seven months had elapsed.

In the mean—you cannot expect a contractor to sit there for seven months waiting for an answer. He's got to continue work because his contract requires him to. Who is paying the subcontractors while that—while they sit there for seven months to give him an answer. He is, and it's coming out of personal funds. And so to me—just to get an answer. That's only one example. I can give you four or five other ones of those same intentions. And you can't help but sit there and say are you intentionally delaying giving me an answer, delaying [unintelligible]. I'm going to get stuck with liquidity damages. LD, by the way is about \$52,000 per day, so four or five days you're in a quarter million dollars already.

Or retaliation. If he went to a congressional member and talked to him to see what he could do, to see what could be done. What could be done—the military retaliated against him, they cost him a quarter of a million dollars. And that was just one instance and there are several others.

Now this is not the only contractor. I'm reluctant to name the other contractors because they didn't give me permission to say their name. And so retaliation in this state for federal contracts is very, very important. This room would be five times this size, I think, if all of the small business really spoke up. They're afraid to. Because I contacted, telling them about [unintelligible]. Not one of them, other than Mr. Metcalf, was willing to come and testify because they're afraid.

**MR. POEPOE:** Mr. Metcalf.

**MALE VOICE:** Metcalf.

**MR. POEPOE:** [Unintelligible]

**MALE VOICE:** He's going to testify after [inaudible]

[unintelligible]

**MR. POEPOE:** My concern is to know that the [unintelligible] the order, the work order, job order [background noise] [unintelligible] subcontractors really all that goes on. [Unintelligible] [inaudible]

**MR. CHUN:** I submitted packet along with examples. My contact information is there. If you need any more information feel free to contact me.

**MR. OWENS:** Well non-retaliation is an issue for small businesses. Non-retaliation policies being effective, and in place, and utilized by federal agencies. Part of the rating that we have for federal agencies is a rating: do they have a non-retaliation policy in place for their employees as well as for small businesses to be aware. Sure, you can have a policy in place but that doesn't mean you may not have retaliations in some form. So that is a concern. That's a concern for our administration as well as Congress, I'll tell you. With that one point, take the Department of Defense, specific agencies or specific— what agencies within the Department of Defense, for example?

**MR. CHUN:** Department of Navy.

**MR. OWENS:** Navy.

**MR. CHUN:** It's the [unintelligible] office of in charge of construction at Kaneohe [phonetic] military base.

**MR. OWENS:** Okay.

[unintelligible]

**MR. OWENS:** Thank you very much.

**MALE VOICE:** Okay, thank you.

**MR. OWENS:** Mr. Metcalf?

**MR. TERRY METCALF:** I could give you a brief synopsis of who I am and how long I've been in Hawaii. I'm 54 years old. I've been living in Hawaii since 1985. I graduated from high school in Alexandria, Virginia. My father was a civil servant, my father in law was a civil servant in DC, my brother worked for the EPA in San Francisco. Grew up on a navy base so I'm military and also federal departments in Washington, DC. I know quite a bit about them. Spent a lot of time in my senior years going into DC, and going to Congress, and you know, different things. So I guess the reason why I'm here today is I'm not afraid of retaliation because they've done everything

possible they could do and I'm still alive and standing. We finished our project.

In 2001 I'm on the Big Island, Kona, and there is an act that has come into play called the Hub Zone, and it's basically historical unutilized area where they want to be able to have small business be able to compete with big business. And at that pointing time I've been working in the Kona area and the other islands doing federal work for HUD, FEMA, rebuilt Hawaii after the hurricane, did homeless, did transitional housing. Worked on probably five out of seven of the islands doing federal projects, and made the mistake of thinking that I could compete with the big boys in federal contracting in Oahu. I got qualified for the Hub Zone, which was to give you a ten percent preference in your bid and I went after a 212 house project on Kaneohe Marine Base. Took me three years to even be able to write the technical papers to where I could even get—even if I was the low bidder I couldn't get picked because the technical papers and the parameters that they put around it, it's a subjective situation where they can pick pretty much who they want.

Spent three years and half a million dollars putting an office in Oahu, hiring the right type of people that could do it, and finally getting with bidding and two of the biggest contractors in the United States, Hunt Corporation out of Texas and Lend Lease Zackus [phonetic] out of Australia. Today, both of those corporations are doing billions of dollars of housing business in this town and it's under the parameter of privatization.

My contract that I went after and bid was a design / build contract, to where that it's not a bid / build where they draw the plans. We were to design the project with our own architects, civil engineers, etc. , etc., as part of the package, and our technical package, and our price. We went into a bid process and we won the bid but they put preference on. They chose not to use the preference and awarded the contract to Lend Lease Zackus [phonetic]. I think at that time I met you, came into your office, said hey I'm being treated unfairly, they're not using the preference. Why did Congress pass this bill? I went to DC twice. I spent, I think \$170,000 fighting the appeal on the process and finally we went to the GAO, they threw us out. We appealed and went to Federal Court of Claims and won seven ways across the board. They awarded us the contract.

Needless to say, this was the first thing that had ever happened in Pearl Harbor like this and took a salty attitude about it. The minute we arrived on the site they started putting requirement on us that they shouldn't be putting on us. One was that they wouldn't let me use proven management that has been working for me for ten years. Another thing is we've done over \$400 million worth of work but never defaulted on a job. And we've done 55 major projects. In the same time period that this is going on, we win the Parade of Homes for

luxury condominiums in Kona and we are also working with Governor Lingle putting in homeless housing for the governor. So we're not people that—we're pretty well known, and I'm a fighter, and I just kept going, and going, and going.

Short story, at the end of the day, took us four years to get through the contract. They sold two houses. I borrowed \$6 million and I finally made it through the contract. At the end of the contract they—we ran into unsuitable material, which is in Kaneohe you have red clay out there. Across the street from the project that we're doing, Hunt Corporation had built 184 homes and they had heaving going on underneath the foundations of their slabs because you have this red clay, it gets wet, expands like a sponge, you know, cracked slabs. They had this going on. I'm like, well I can't do that. The bond will be pulled and so I went to them and I said your soil—you represented in your RFP that the soil was build-able but we do the soil compaction test—we had three separate experts do it—they all came out that this is expandable soil. We gave them a change order, told them that this is what it's going to cost. They rejected it and said you should have known this, even though in the bid process, in an RFI, one of the other people that bid it, either Hunt or Lend Lease, asked the question if the soil is found to be unstable or unbuildable, what will happen? And the answer back from the federal government was there'll be a change order written.

We fought, I think it was five months, over this, which delayed the project, which on a project like this probably \$100,000 a month—spinning our wheels, not knowing where to go. Finally after five months of arguments they paid me about \$50,000 to do the prototypes and the prototypes were basically a model that we would build, they'd approve it, and then we'd move forward. We built the model, and in order to deal with this you have to dig up two feet of the clay, bring in base course, compact it to 90 percent compaction, and then you pour on it, and you get a stable base. When they paid me for the prototype, five months after we had been delayed, I assumed that they were going to pay for the rest down the road. There are 106 foundations, 212 because they're duplexes. I get 45 of them done. About three months later they tell me that they're not going to pay, even though they paid for the prototype they're not paying for anything else.

At this point in time I'm 2 million in the ground in costs with nowhere to turn. What am I going to do to make it through this project? We redesign a thing called post-tension, where you can put a concrete slab on a bad soil. It's called a raft, and you go from four inches of concrete to nine and you post tension them with cables so that it holds together like a raft. So if your ground heaves here, the whole house will do this instead of one corner break.

**MALE VOICE:** We're [unintelligible] right now and that's [unintelligible] the engineering world. So that's great but—

**MR. METCALF:** Okay, all right. But anyway, long story short, they tell us we're not paying you anything. Okay, I go into a redesign, get my civil engineers out, I go into post-tension, it's going to cost another million dollars to do it that way but it's going to save 3 million in [unintelligible] and base course compaction. So I make that decision. I go to the bank to borrow everything I possibly can in funds to front this. So we get going on that and we get about six months into that and we run into contaminated chlordane soil. Now somebody from the EPA here I heard was over there?

[unintelligible]

**MR. METCALF:** Okay. And the acceptable parts per million for chlordane in soil is 1.6 parts per million. When we test the soil out there we find we have 32 parts, 20 times higher than the acceptable level. The government doesn't know what to do. We have piles of dirt that are bigger than this building, we can't finish our slabs, we go into another five to seven months delay period. They decided that they're going to do a risk assessment. They pull back from us, they pull back from the State of Hawaii, they pull back from the EPA. They go do their own risk assessment and guess what? They come out and say that 32 is acceptable. And tell me that if I don't go forward and spread that contaminated soil out in the front yards of this— This is a family housing project. There's a thousand people today living there, children playing in the soil. And they tell me to plant grass on it or they're going to default me. So what do I do? I plant grass on it.

We finished the project. Probably about the last month of the project, we've already got a prototype done months and months ago. We put 212 tile roofs on these houses. It's a design / build project. The roofing system had been accepted in the prototype and all of a sudden out of nowhere one of the guys in the government looked across the street and another project's putting tile on the roof and they've got board and batts on the roof. Well, this isn't the type of thing that we've designed. It has nothing to do with us. But they go oh, you owe us \$400,000 for not putting board and batts on the roof. It's a unilateral change order, right at the point where they know they can break me because I have a pay request coming and if they can suck 400 grand out I won't make it. They do that. Okay?

**MALE VOICE:** But what year are we in now?

**MR. METCALF:** I'm mowing the grass outside. [mixed voices]

**MALE VOICE:** 2001.

**MR. METCALF:** It started 2001 and it's been going on for five years. The bid, the original bid was 2001, the appeal went through 2002, and we started working in 2002.

Now the funny thing about this now is even though we tell them that you've got contaminated soil, they do the risk assessment, this

week we find out that those people are growing vegetables in their yards now. Guess what's happening to that contaminant? This is a number two carcinogen, just like DDT. Same level of stuff. Okay?

So anyway, we fight through the thing, I borrow everything possible. The subs that are out there fight through it with me. I get to December 10<sup>th</sup> of last year and my bonding company sees that I'm now \$17 million upside down on the work in progress, and they're going what's going on? They get on a plane, fly out from Chicago. We're getting our last billing accepted and they go how did you do it? And I said I threw everything I possibly could. Today I'm in debt \$17 million, six to the banks, eleven to the bonding company. We have a \$26 million claim against the federal government that we're starting [unintelligible] and talking about delays. We give—

**OPERATOR:** Joined.

**MR. METCALF:** –March and they tell us that they might get back to us by January of 2008. Okay? So that's expedience on the government's part.

**MR. OWENS:** Who did you speak to? Who are you working with?

**MR. METCALF:** We're working with DeRoitte [phonetic], but see, this is a personal bill. What happens is they've got a guy out there—I've actually gone through three different commanders here at this point in time. The original attorney that we beat in the appeal process is a guy named Ron Ashlock [phonetic] in Pearl Harbor. He has taken this thing personally from the day we beat him in DC, throughout the whole project, trying to block us and to default us because—and the only reason I made it through this is because I'm from the Big Island and there's a huge boom going over there and I've been building luxury condominiums. The year that they tried to do this all to me, I did \$92 million worth of revenue on the Big Island that all went into the federal project to keep it afloat. They never thought we would make it, but guess what? We're standing here today. I did not go out of business. The other guys out there have. I got lucky that the bonding company believed enough in what had happened that they have funded the defense and also paid the subs off that hung with me. I had a site guy that fronted me \$3 million worth of work just because he believed that it was the right thing to do, and he had that kind of money. So—

It's funny because I was reading through this thing that you guys got here, this PowerPoint, and I kind of wanted to address here in your, I don't know what this would be called, your national leadership, where you talk about we make our economy stronger, more competitive. America, let's reward not punish the [unintelligible] of entrepreneurs. Your mission statement—I was punished. We will continue to fight this and what I bring to you guys today is do not think that you're going

to come into the federal contracting arena and it's going to be easy, and you're going to make money, that they're going to let you do it the way you want to do it, because it's not that way. That's basically all I have to say.

**MR. POEPOE:** I wanted to ask you, are you still a small business, are you categorized? What is your--?

**MR. METCALF:** I went through the small business as I built this project. Small businesses at that time that I bid — I think it was 27 million for an aggregate of three years, and we were, to make the Hub Zone in a small business, we were that. As we started building projects, it was a \$48 million project, I think it's probably the biggest project a small business has ever built. So today I'm not a small business but real soon I'm shrinking down there. [laughter] I'm coming down. [laughter] I guarantee you I won't do federal contracts no more. [laughter]

**MR. POEPOE:** Also I have seen you have brought a lot of technical issues here, you know, the soil stabilization [unintelligible] the clay soil. Where did your soil physically [unintelligible] down there by U.S. Navy?

**MR. METCALF:** Let him comment. He's a PhD. I'm just a [unintelligible]. [laughter]

**MR. POEPOE:** Also the contamination you have cited, the other was [unintelligible] by the U.S. EPA or Hawaii EPA about those [unintelligible] as well any knowledge of-- They have to acknowledge that [unintelligible] than what they have—

**MR. METCALF:** It's all documented, every bit of it. The risk assessment, our letters to them telling us what we found. And they actually mean seven months before that they told us to test our soil. They knew that there was contamination there because KD, who is another contractor that did go bankrupt out there, the government talked to them about it seven months before they talked to us about it, and they were like two blocks away.

What chlordane is, just so you know, it's a bug spray that they've been putting it on for 60 years to get rid of the termites because termites are real nasty out here—eat up all the wood framing. So they've just been spraying, and spraying, and spraying, and what's happened is it's hit the levels, I mean, it's 32 not 1.6, and now it's growing in the grass and the vegetables in the ground.

The good part about it is that the project is accepted, there's no deficient work, there's 212 homes being lived in, the people that are living in those homes are the people that are fighting Iraq, who is the Marines. The Navy administrated the project but it was actually Marine housing. We have witnesses in our trial from the Marine Housing Department of unfair treatment. We've got this guy who was

there for 35 years as a housing inspector for the housing department and he wants to testify in our case of the retaliation that went on.

And the last thing, which is even more incredible is there's a thing called liquidated damages and constructions, and it basically is if you're late they take money from you. Well, because they delayed my project two separate times, five months for bad soil and five months for contamination, guess what? I lost ten months, right? Did I get any time? No. And at that point in time they extrapolated by my schedule that I wasn't going to finish on time because I had lost ten months so they started taking liquidated damages in retention out of my payments before I hit the date of liquidated damages. Okay? And they did that to the tune of over a million dollars. At one time I finally hired a tough contracting officer, kind of more or less a hired gun to come in because I didn't know what to do. I mean, I was to the point that I didn't know what to do. And the guy was so good that they actually offered me to release retention if I would get rid of the guy, which I did because I needed the money.

So you're talking about—I mean, I can go through this whole thing and there is not one item on here that I could tell you what happened. Oh, by the way, I got debarred. I would not give them a claim. They wanted to keep—give us a claim, give us a claim. Well the last thing you do in contracting, when you're trying to turn over units, is get sideways with your owners, because when you get into that final punch list to that unit, they can kill you from here on in. It's a subjective [unintelligible] punch list. I held back on the claim so they accepted the units. I give them the claim on March 30<sup>th</sup> and guess what? I get debarred three weeks later, without a hearing. All of a sudden one day I get a phone call and they go, you've been debarred. No hearing, no nothing. The debarment official— My attorney, who is from Washington, DC, goes and meets with them and tries to say what are you doing here. They go, we're going to come out and take a look at it. So they fly out here two weeks ago and they never come talk to me. They come out, do something—

**MALE VOICE:** Who were they [unintelligible]?

**MR. METCALF:** The debarment office. Naval shipyard, I think. So, you know, today they have a million four of liquidated damages of my money, they have 400,000 of pulled back batt and roofs of my money, they have contaminated topsoil the children are crawling around in, and the funny part that you were talking about the congressman—we actually had Ed Case come out to the project when we were right in the middle of this different soil condition thing. And he came out and the week after that they hit me with more retention. So they retaliated on me for having a congressman come.

And I know some of you guys have seen this thing in the paper over the years, we've been fighting and stuff, and there was an article

written in the Pacific Business News about two, three years ago, and they interviewed Ed Case after he had been out there. He was the congressman, and he called it the contract from hell. And so when we finished it we printed up t-shirts called The Contract from Hell, and sent one to Ed Case, and it's in—he has since been beat and he's not a congressman anymore but there's a t-shirt in his papers and documents [unintelligible] for the contract from hell. And he'll testify if need be.

**MR. OWENS:** Well I certainly appreciate you being here. Time is a precious commodity. I know you could be spending your time—

**MR. METCALF:** In fact, I've got to go to work.

**MR. OWENS:** But this is—right—this is more of a macro issue in terms of small business and government contracting. So we will work with the Department of Defense on a national level on this issue as well as here in Hawaii. Obviously we'll have to see how we're going to do that but we will [unintelligible]. We have all the information.

**MR. METCALF:** Can I get a card from you?

**MR. OWENS:** Yes, sir.

**MR. METCALF:** Because I'll be in Washington on this claim, so-- All right, thanks so much.

**MR. OWENS:** Thank you, sir. Thank you.

**MALE VOICE:** I just have a quick question here. How many more testimonies are we going to do today? Because you guys are going to stop at 12, right?

**MR. OWENS:** Well, I'll be here as long as it takes. [background noise] Is Mr. Cockett here?

**MR. IRWIN COCKETT:** Yes.

[crosstalk] [background noise]

**MR. OWENS:** We're going to be recorded, which means—

**MR. COCKETT:** I'm going to speak up.

**MR. OWENS:** If you could, that would be great. Thank you.

**MR. COCKETT:** I had really prepared a sight presentation but inasmuch as the room is not conducive towards that, let me provide you with a copy of that so [unintelligible].

First of all sir, I really appreciated your introductory comments and I look forward to you being able to help us as you go back. Aloha, Mr. Owens and thank you for providing me with this opportunity to share with you some of our concerns as we strive to build our small business companies.

My name is Irwin Cockett and I am president of Hana Business Consulting Management Services, Inc. subtitled HBC. I'm also

representing David Cooper, president of the Hana Group, who sends his regrets. He had planned to make a presentation this morning but urgent business required his presence back in Washington.

I hope you are able to review our comments on your form 1993 and today I would like to elaborate on them with a short slide presentation, which I would invite you, as I go through my presentation, to look over. I also have left a copy of it, of course, with backup information.

Let me begin with a little background information. Both the Hana Group and HBC are members of a family of companies owned by Hui Ohana Pono [phonetic] a Hawaii based non-profit corporation designated as a native Hawaiian organization, NHO, by the Small Business Administration. As you know, the primary purpose of Hui Ohana Pono and its family of companies is to serve native Hawaiians through programs that principally benefit disadvantaged Hawaiians—very similar to the AMCs, of course, in the Native American tribes.

To date, we have managed to work our way through the trials and tribulations associated with applying for the NHO and 8A status for our two companies. But this process in itself is consuming for a young startup small business. Our mission today is to have you carry back our specific concerns regarding our application for a mentor / protégé relationship with the Hana Group and the Lockheed Martin Corporation, and our similar application for a mentor / protégé relationship between HBC and the International Business Machines Corporation, IBM. Both these applications have been long stalled at the desks and in the halls of SBA management and technical assistance offices.

Having said that, we believe that the SBA has created a superb program in the mentor / protégé program. As you will recall, the purpose of the mentor / protégé program is to enhance the capabilities of 8A participants and to prove their ability to successfully compete for federal government contracts. The mentor's ability to provide the protégé with technical, management, financial assistance, and hold subcontracting support and joint venture arrangements provides a helping hand for a startup company to grow and ultimately stand on its own. This alignment with a major corporation provides the customer and contracting officer with a potential vehicle to use the sole source capability if it is in the best interests of the government.

If you will look at slide number two, it reflect critical dates in the 12 month process that we have used in submitting our application for the Hana Group. And my comments right now are restricted to the Hana Group. As I go through this series of slides, please note that where appropriate, we have included an estimate of the manpower and hours spent on the requirements. I must tell you at this point that we were very fortunate to have the Kauai District Office and our assigned

Small Business Opportunities Specialist to help us to put together our application, and they supported us throughout this whole process. And we submitted that application with complete confidence that our document was complete. Our business opportunity specialist estimated it would go through the normal processing and take four to seven weeks. Today is July 19<sup>th</sup>. Seven months have gone and still no decision. I will cover the impact of these delays to Hana's businesses later.

Item three, these two, and slide four also, indicates that the Office of Management and Technical SBA put up a number of hurdles in front of us, and after listening to Mr. Metcalf and of all his problems, I feel very—[unintelligible] walking out, because, by golly, he certainly has had the extreme. The investigation was led by Miss Teresa Lewis, Director of the Office of Management and Technical Assistance, concerning Hana's mentor / protégé application. None of these, none of these were required by the application submitted, and of course it was at a great cost to Hana and its meager resources. Most disturbing was that Ms. Lewis never communicated with Hana or Lockheed Martin, nor did she demonstrate any professional respect to both organizations, as she chose not to respond whether the reams and reams of documents submitted were accurate, reflected compliance with SBA rules and regulations, and fulfilled the requirements of the SBA mentor / protégé application. Our repeated requests for status through proper channels received responses as ongoing.

As depicted in the previous slide we resorted to our congressional leader, Senator Inouye in May for help. His letter to Administrator Preston received the same standard kind of response [unintelligible]. And by the way, I am a retired individual who has been part of some of these bureaucracies so I can understand it.

Slides 4, 5, 6, and 7 that I've handed you reflect more requirements for information resulting in more work from an already overworked staff. As you know, 8A startup companies lack the infrastructure, resources, or personnel, and must manage their meager resources to focus on getting business, not being buried by bureaucracy requirements with short deadlines. Maria would—her desk would really get a requirement on a Friday and have four or five days to get back to them. And I'm talking about having to really dig into our financial records and so forth.

As time passed we became convinced that the delays was because SBA had made up its mind to disapprove our application and was searching for a reason to turn us down. Let's investigate them. Well, that investigation did not work. Keep digging until we find one that will. Another thought we had, a competitor has gotten to somebody in SBA to disapprove our request. We're going after some big contracts against some big guys. There's some kind of a vendetta again. They must be reacting from the wounds they received from the GAO and

[unintelligible] which we are well aware of.

Slide-- I'm sorry?

**MALE VOICE:** What were the paper reports?

**MR. COCKETT:** Well one of them is criticism of the way the SBA was providing oversight to the large contracts that have been awarded through the Alaskan AMCs. Primarily it is an oversight from the department. I'm certain that Andy can provide you with more information.

Slides eight and nine are really what hurts. They reflect the opportunities and the impact to Hana. And you know, if I can take a second to review that with you. Here's your Pacific Missile Range Facility, approximately 600 million, NHO sole source opportunity under the SBA mentor / protégé program. This is a very important critical opportunity for us. Very critical, time sensitive. If we don't get that protégé authorization by the end of this month we are at a severe disadvantage and it would force us to go into a prime-sub relationship, rather than the opportunities that other sole source organizations may take advantage of.

San Diego, we lost out on an 800 million NHO sole source opportunity or as a JV, a joint venture, under the SBA mentor / protégé program. Navy Security, a 500 million NHO sole source opportunity or as a joint venture under the same program. Contract was awarded at 404 million. Navy Security Support Services, approximately 700 million opportunities as a JV on that particular one. So the whole point of course is opportunities come in the business world as you know and they pass you by but once and they're gone. And we have lost out on these various opportunities.

Especially critical to Hana, and I'm going to overemphasize this point, is that we need to have this bloody thing back by the end of July so that we can compete. And if we don't get this back in that way then we've got to take some kind of action. You know, rumors in the business world get around a lot faster than facts and some of the pushbacks that we have received because of the impact of these investigations. Our reputation, as a result of the four investigations I mentioned earlier, have serious ethical and regulatory violations, but in the minds and perceptions of some of our contemporaries. Hana's NHO and 8A status appears to be seriously flawed is some of the rumors floating around. Hana's leadership, financial and contract management, must be broken. A quiet pushback from Lockheed Martin to move on to other opportunities. Difficulty in business development and relationships with other DoD focused corporations—IBM, SAIC, and PFC. Flashing message: stay away from the Hana Group. But you know, in the last thing that came back to Andy's office, the criticism that was brought to us as a problem really was not ours but in the case of information that Lockheed had submitted, but which was even then

corrected.

So I think that gives you an idea of some of the [unintelligible] we have. In conclusion, Hana has been placed at a very serious disadvantage in business at a very critical time. All of these investigations have placed us in harm's way. Business opportunities come and go and can never be reclaimed. Our meager staff have had to work long hours and weekends to gather up all of the information requested by SBA, taking them away from important business requirements. All of this extra work costs us money. In turn, we looked upon SBA, Washington, DC with distrust, having no respect for the little guy and acting in a very unprofessional manner. That they are completely insensitive to the financial and personnel limitations of small business, seeming abuse of authority, having lost sight of their mandate, help small business and their own. Finally, apparent disregard for fairness and equality. I'm reading your mandate [unintelligible] therefore I look forward to you carrying out [unintelligible].

Now these are very passionate words, which I have brought forth here, and they reflect our petition to correct what we consider to be the unfair processing of Hana's mentor / protégé application.

I'm going to skip going over my HBC presentation because that pretty much falls in the same line. And let me conclude by saying this: First, this has been a very frustrating and disappointing experience. Secondly, disappointing because during the period that our applications were forwarded to SBA headquarters we not only provided in mere timely manner all of the documentation required, but also received no feedback from the Office of Management and Technical Assistance of why we were required to undergo the additional investigations, nor on the quality and accuracy of our information. Lastly, disappointing because of the failure of the SBA to live up to its mission to aid, counsel, assist, and protect the interests of small business concerns.

The one shining light throughout this entire ordeal has been the outstanding support rendered by the Hawaii District Office, in spite of their heavy workload. We couldn't have done without their help.

Were it not for our dedication and commitment to help our people, our native Hawaiian people, and I am Hawaiian, we would fold our tent and fade away. The bureaucracy of this whole thing involves—makes for a very difficult working environment. It is our hope that your charter can transmit our issues back to the appropriate authority for high level review, will result in a favorable action with our mentor / protégé application.

Do you have any questions?

**MR. OWENS:** Thank you for an excellent presentation of the issue as you see it and understand it. I will tell you, first of all, I take

these issues and concerns very seriously. Outside of serving as the national ombudsman, [unintelligible]. And in that, I can tell you our [unintelligible] we'll take this very seriously. I understand you've had correspondence with the Administrator and I'm sure that the response is in review with the office that is working on the—

**MALE VOICE:** Absolutely. Sure.

**MR. OWENS:** And in saying that there's a [unintelligible] issue of backlog. Out leadership, the agency, the administrator, the deputy administrator, has directed staff to make sure that we're being fair to small businesses. Small businesses are the customers. The administrator says that often and that [unintelligible] more customer-centric culture and certainly if this is the case that doesn't reflect that culture. So we certainly want to seek to resolve that. So I will take this back and beginning this afternoon start looking at these issues.

[unintelligible]

**MR. POEPOE:** How old this Hana and HBC companies?

**MR. COCKETT:** Hana Company was the first and it was organized in April of 2004.

**MR. POEPOE:** And HBC?

**MR. COCKETT:** And HBC was in 2006.

**MR. POEPOE:** What do you [unintelligible] are you providing?

**MR. COCKETT:** At the present time, Hana is heavy into security services. We provide all of the security services for Pearl Harbor. This is contract security, as well as up in NICPANS [phonetic], a secure facility, and the Naval Magazine. We also have the contract in Connecticut for the New London Submarine Base and the Naval Air Station in Maine. Also the Naval Training Base in Illinois as well as in Tennessee. And we also have the access, controlled access cards throughout the East Coast and down the West Coast. And that is Hana's primary business.

In the case of HBC, we are in the information technology area in terms of design of computer services and we have contracts with the Navy also for consolidation of their service back at TNIC [phonetic] as well as we've had also subcontracts out of IBM for the financial improvement program for Pac Fleet here in Hawaii. And I might say that access card I mentioned, controlled access, TAC [phonetic] cards, that is an HBC contract up through the East Coast and down through the West Coast.

What am I missing? Those are our primary contracts.

**MR. POEPOE:** [Unintelligible] HBC has a new contract—

**MR. COCKETT:** We just picked up another contract for consolidating of another group of call centers and we just got that this

past week. [Unintelligible] [laughter]

**MR. POEPOE:** At the age of your company, I'm sure you are doing great [unintelligible]

**MR. COCKETT:** Well we started out with four people. Only one was on payroll. We now have gone—we're about 300, and soon to increase about 400 in the [unintelligible] time frame. So you can see where the buildup, of course, of the infrastructure is very hard when you get slowed down by these kinds of actions.

**MR. POEPOE:** [Unintelligible] did you have indigenous [unintelligible] people on computers. What is the--?

**MR. COCKETT:** For security?

**MR. POEPOE:** Yeah, did you--?

**MR. COCKETT:** Security guards. Armed guards.

**MR. POEPOE:** [Unintelligible]

**MR. COCKETT:** Absolutely. One other contractor I failed to mention is a contract that we have with the Navy also for managing their submarine parts. It's a logistical contract here at Pearl Harbor also. We are heavy into the Navy.

[Unintelligible]

**MR. COCKETT:** Thank you.

**MR. OWENS:** Sir, may I have your written comments, please?

**MR. COCKETT:** I'll get you [unintelligible].

**MR. OWENS:** Okay, that's would be great. Thank you very much. And last on this list but certainly there are others certainly welcome later. Mr. Hooper?

**MR. COCKETT:** As I mentioned, I spoke for him on behalf of Hana.

**MR. OWENS:** Okay, terrific. All right. So that's all we have on this list. Do you have a comment, sir?

**MALE VOICE:** No, I'm just wondering how many folks are on a list.

**MR. OWENS:** Are there any other comments, concerns by any small businesses, government representatives attending today?

[mixed voices] [laughter]

**MALE VOICE 13:** [Unintelligible] testify here, testified very passionately. They've been going through this for a long time and they have had no help or they feel like they have gotten no help. So you hear [unintelligible]. But I'd like to know [unintelligible] put pressure on you, you know, is there something you can do for us? I mean, you

know, other than coming here and enjoying Hawaii, and they're passionate [unintelligible]. I'm almost in tears. Is there something you can do for them? I mean, are you going to either go back or say hey these folks testified, I need to have this done today. I mean—

**MR. OWENS:** It would be nice if there were some magic to this process but there isn't, as we know.

**MALE VOICE 13:** [crosstalk] But can you tell me the process [crosstalk] the folks here, who just testified. I'd like to hear that.

**MR. OWENS:** Great question. We can't guarantee a 100 percent positive resolution to every issue that even came but we'll guarantee that we'll give 100 percent of our effort. We have success stories, especially within the bureaucracy, navigating bureaucracy, the processes, the issue of a delay in review in a case. The issue that he's of course addressing, Mr. Metcalf, the construction company, certainly that's a very large issue. So that's not one that you go back to Washington and you place a call and the problem's resolved. That's just not the way it works. But we certainly can take this on high level and have a higher senior review of these issues, and I'm confident we can make some progress. To go to the extent would be inappropriate for me to do and be certainly premature and not fair to that small business. The problem is something that's [unintelligible]. These are certainly valid, topical, and substantive issues that we can address.

**MALE VOICE:** [Unintelligible] received concurrence [unintelligible] basically can you overrule them or—

**MR. OWENS:** We don't have that authority but we do have the authority to work with the inspectors general, throughout the federal government, to work closely with the inspectors general, and I will say on issues of retaliation certainly IG have a keen interest in those issues. [Unintelligible] Also Congress, we work closely with the congressional committee jurisdiction on these issues. So yeah, we do have various powers through the Small Business Regulatory Enforcement Fairness Act provided to us. But as far as overruling an action, that's just not a process that [unintelligible]

Yes ma'am.

**FEMALE VOICE:** [Unintelligible] back there. [Unintelligible] and wouldn't it be better if it could be filed in the state level than having the federal government have to reach into every single state with problems?

**MR. OWENS:** Well, just to clarify, you have state representatives here that address state issues. Where SBA is a federal agency, the Department of Defense is a federal agency. But it's a great question, in fact next week in Philadelphia I'm addressing an American Legislative Exchange Council, which is state legislatures. And that's one thing that we work to encourage more states to have state small

business ombudsmen, and I understand you have a well organized ombudsman system here with this state and with your small business [unintelligible] review board. But that's effective. So I would defer to state officials if you'd like to make any comments on that process.

**MALE VOICE:** If a small business has a complaint about a major company, agency, or some interaction that they're having with [unintelligible] the county building department for permits or codes, or a state agency where you have a contract with them and they're not paying on it, you can call my office, the state ombudsman's office.

**FEMALE VOICE:** To be honest, when the federal government has to come into it, when it's like a Navy contract or—

**MALE VOICE:** [crosstalk] It's a jurisdictional—I only have statutory authority to look at state and county level agencies in Hawaii. If it's a complaint about the Navy I don't have jurisdiction. I'd have to defer over to Mr. Owens or Mr. Poepoe to help out with those. To say that he doesn't have jurisdiction to investigate something against state or local government agencies. It's just a matter of powers created and what our jurisdictions are.

**FEMALE VOICE:** [Unintelligible] –to the hilt, you know. We never go anywhere without somebody telling you when, where, how, and how much. It's ridiculous. [Unintelligible]

**MALE VOICE:** Well it would be great where my position could go away and there would be no issues affecting small businesses but that's not the environment we're in and obviously Congress recognized that as well, so—

**FEMALE VOICE:** [Unintelligible] add to that. I'm with the Department [unintelligible] [inaudible] that we would assist them so that they could comply the correct compliance [inaudible]

**MR. POEPOE:** I had one [unintelligible]. Have you gotten—

**FEMALE VOICE:** I'm [unintelligible] Department of Labor [unintelligible]

**MR. POEPOE:** Oh yes, there is the Department of Labor. Maybe OSHA [unintelligible] [inaudible]

**FEMALE VOICE:** I need to know if there was [inaudible] was done that they have to close [unintelligible] contamination [inaudible]

**MALE VOICE:** I don't know if [unintelligible]. We did notify the State Department of Health, primarily because this was on federal property. And the issue—and I did [unintelligible] and the EPA [inaudible] and the issue became one of whether or not the federal government recognizes the State of Hawaii had any jurisdiction at Kaneohe Military Base. And the answer that we got, the official answer we got from them is the State of Hawaii has no jurisdiction and cannot tell us what we can do with our property.

**MR. POEPOE:** But you said you communicated with US EPA?

**MALE VOICE:** Yes. [crosstalk] They deferred to the State of Hawaii Department of Health. Department of Health provided as much information that they could but they were basically kicked off the base. We didn't have jurisdiction, we can't come here anymore.

**MALE VOICE:** [Unintelligible] EPA also works with the state [inaudible] and also there must be an air quality [inaudible] and that's also the [inaudible].

**MALE VOICE:** [Unintelligible] so it doesn't affect us. So the workers—our workers were protected [unintelligible]. So I went to EPA, EPA deferred to the State, the State tried to [unintelligible] ruled out so they don't have jurisdiction. They bumped it back to EPA, and EPA has decided to defer to the military. [inaudible]

**MALE VOICE:** Any other comments?

**MR. OWENS:** Thank you all for taking the time to be here today and-- [applause]

**FEMALE VOICE:** Can I ask for those of you who did not sign in, please sign in.

[mixed voices]

**FEMALE VOICE:** Hello?

**MALE VOICE:** Yeah.

**FEMALE VOICE:** Okay, we're done.

**MALE VOICE:** You're done? Okay.

**FEMALE VOICE:** Okay? Thank you.

**MALE VOICE:** Good. I couldn't hear much.

**FEMALE VOICE:** I know. It's like hmm, it doesn't sound like they're talking about anything more.

**MALE VOICE:** And hopefully I'm going to depend on you for two things. I didn't get an agenda. I'm going to need that electronically, and also I'm going to need help with a little summary. I'm going to send you the format on that on the summary. And primarily what I'm going to be looking for is all the agencies that you contacted—not agencies but small business groups and the membership. You'll see from the-- And just take a couple days to work on it.

**FEMALE VOICE:** Okay, I'm gone from tomorrow because I have to go to Guam.

**MALE VOICE:** Oh okay.

**FEMALE VOICE:** So I'll be gone and I won't be back until the 30<sup>th</sup>.

**MALE VOICE:** The 30<sup>th</sup>?

**FEMALE VOICE:** Yeah, so if you want to send it to Andy and maybe.

**MALE VOICE:** Okay, I'll send it to both and then I'll explain it. If you can, whatever you did last that I didn't get, either email it to me so that I will have it, because I'm also going on leave. I'm going to Florida tomorrow so at least I'll have it in my box.

**FEMALE VOICE:** U.S. Environmental Protection Agency.

**MALE VOICE:** Okay?

**FEMALE VOICE:** Okay, all right.

**MALE VOICE:** Thanks a lot, okay?

**FEMALE VOICE:** You're welcome, bye.

**OPERATOR:** Thank you. Please stand by.

[sound cut]

[END TRANSCRIPT]